

APPENDIX A AIRPORT ZONING

ARTICLE I. GENERAL PROVISIONS

Sec. 1.100. ADMINISTRATIVE PROVISIONS

Sec. 1.101. Purpose and title.

A. *Purpose:* The purpose of this ordinance is to protect the public health, safety, and general welfare resulting from the creation or establishment of obstructions that are a hazard to air navigation and identify requirements within the airport influence area associated with the Scottsdale Airport.

B. *Title:* This ordinance may be cited as the “Airport Zoning Ordinance of the City of Scottsdale”.

Sec. 1.102. Enforcement.

It shall be the duty of the airport director to administer and enforce the regulations prescribed herein unless otherwise noted.

Sec. 1.103. Judicial review.

Any person aggrieved, or any taxpayer affected, by any decision of the airport board of adjustment, may appeal to the superior court as provided in section 2-330 of the Arizona Revised Statutes.

Sec. 1.104. Penalties.

Each violation of this ordinance or of any regulation, order or ruling promulgated hereunder shall constitute a class 3 misdemeanor. Each day a violation continues to exist shall constitute a separate offense.

Sec. 1.105. Conflicting regulations.

Where there exists a conflict between any of the regulations or limitations prescribed in this ordinance and any other regulations applicable to the same area, whether the conflict is with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

Sec. 1.106. Citizen review process.

Any airport zoning map amendment or any text amendment to the airport zoning ordinance, appendix A, shall follow a citizen review process to include but not limited to two public meetings and associated newspaper advertisements.

Sec. 1.107. Severability.

If any of the provisions of this ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

ARTICLE II. DEFINITIONS

Sec. 2.100. GENERAL

For the purposes of this ordinance, certain terms and words are hereby defined or as defined in Chapter Five of the Scottsdale Revised Code.

Aeronautical Activity means all aircraft overflights, arrivals, departures, and any associated sounds generated by aircraft operating to or from Scottsdale Airport and Airpark or within the area defined on the Airport Zone Map.

Airpark means the taxilanes located outside the airport, and intended for airport/airpark access, and all real property adjacent to any portion of the airpark taxilanes or adjacent to the airport property.

Airport means Scottsdale Airport.

Airport board of adjustment means a board consisting of five (5) members appointed by the Airport Advisory Commission as provided for in article 2, chapter 3, title 2 of the Arizona Revised Statutes [A.R.S. 25-8462 or 25-8464 et seq.] (need to verify).

Avigation Easement means a covenant not to sue the City of Scottsdale regarding issues pertaining to aircraft overflights or operations in the vicinity of the specified property.

Disclosure means a written notification instrument that describes aeronautical activity associated with Scottsdale Airport.

Hazard to air navigation means an obstruction determined by the Federal Aviation Administration to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

Height means for the purpose of determining the height limits in all areas set forth in this ordinance and shown on the airport zone map, which is attached as part of this ordinance, the datum shall be mean sea level elevation unless otherwise specified.

Nonconforming height means any lawful pre-existing structure, object of natural growth, or structure which is inconsistent with the provisions of this ordinance or an amendment thereto.

Obstruction means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in section 4.102 of this ordinance.

Person means an individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

Runway means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure means an object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

Tree means any object of natural growth.

ARTICLE III. ZONES AND MAPS.

Sec. 3.100. ZONES

A. All land within the vicinity of the airport is hereby divided and lays under approach zones, transitional zones, and horizontal and conical surfaces in accordance with the most recent 14 CFR Part 77, "Standards for Determining Obstructions to Air Navigation," prepared by the Department of Transportation, Federal Aviation Administration which is adopted and made a part hereof.

B. All land within the vicinity of the airport is hereby divided into influence area zones in accordance with the City's most recent adopted 14 CFR Part 150, "Noise Compatibility Program."

Sec. 3.200. MAPS

A. The most recent Scottsdale Airport Part 77 Airspace Plan and the Scottsdale Airport Influence Area Zone maps hereafter referred to as the Airport Zoning Maps, shall delineate such zones and surfaces in the vicinity of the airport identified in section 3.100 and shall be adopted in the same manner as this ordinance, shall be made a part hereof, and shall be subject to amendments made pursuant to the law.

B. An official copy of the airport zoning maps shall be on file with the City Clerk.

ARTICLE IV. HEIGHTS

Sec. 4.100. HEIGHTS.

Sec. 4.101. Nonconforming heights.

A. *Regulations not retroactive.* The regulations prescribed by this ordinance section shall not be construed to require the removal, lowering, or other change or alteration of any structure not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of a nonconforming height. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, if the construction or alteration of which was begun prior to the effective date of this ordinance.

B. *Marking and lighting.* Notwithstanding the preceding provision of this section, the owner of any existing nonconforming structure is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the airport director to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Scottsdale.

C. *Regulations retroactive.* The regulations prescribed by this ordinance section shall at the request of the airport director, require the owner to remove, lower, or otherwise change or alter any tree not conforming to the regulations as of the effective date of this ordinance.

Sec. 4.102. Notification.

Each person who proposes any construction or alterations within those areas described in the most recent 14 CFR Part 77, section 77.13, Construction or Alteration Requiring Notice, shall notify the Federal Aviation Administration (FAA) in the form and manner prescribed in the most recent 14 CFR Part 77, section 77.17, Form and Time of Notice.

Each person who is required and notifies the FAA under this ordinance shall also send one (1) executed copy of FAA Form 7460-1 Notice of Proposed Construction or Alteration to the airport director. The notice required under 14 CFR Part 77 and this ordinance must be submitted at least thirty (30) days before the earlier of a) the date the proposed construction or alteration is to begin, or b) the date an application for a construction permit is to be filed.

Sec. 4.103. Permits.

A. *Future building permits.* Except as specifically provided in a, b, and c hereunder, no material change shall be made on any parcel, no structure shall be erected or otherwise established, and no tree shall be planted that penetrates any zone hereby created unless a height permit has been applied for and granted by the airport director. Each application for a building permit within any of the height zones created herein shall indicate the purpose for which the permit is desired, with sufficient particularity to allow it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No building permit for a use inconsistent with the provisions of this ordinance shall be granted unless a height permit or variance has been approved in accordance with subsection D and section 4.104. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to

permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this ordinance.

B. *Existing uses.* No building permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this ordinance or any amendments thereto or than it is when the application for a building permit is made. Any existing use not conforming to this ordinance shall be issued a height permit by the airport director indicating such as well as the requirements of this ordinance for future changes to the use, structure or tree.

C. *Nonconforming uses abandoned or destroyed.* If at any time any building or land in existence or maintained at the time of the adoption of this ordinance, which does not conform to the regulations for the district in which it is located, shall be destroyed by fire, explosion, act of God or act of the public enemy to the extent of fifty (50) percent of its value as determined by three (3) competent appraisers, then and without further action by the city council the said building and the land on which said building was located or maintained shall from and after the date of such destruction be subject to all the regulations specified by this ordinance for the district in which such land and building are located.

D. *Variances.* Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this ordinance, may apply to the airport director for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances and subsequent height permit shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted, will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this ordinance.

E. *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this ordinance, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary.

Sec. 4.104. Airport board of adjustment.

There is hereby created an airport board of adjustment to hear and decide appeals from any order, requirement, decision, or determination made by the airport director, in the enforcement of this ordinance.

1. The airport board of adjustment shall consist of the chairman of the City of Scottsdale Airport Advisory Commission and four (4) other Airport Advisory Commission members as appointed by the majority vote of the Airport Advisory Commission during their regularly scheduled January meeting. The airport board of adjustment members shall serve one (1) year terms unless their Airport Advisory Commission term ends sooner, or are removed by the council with or without cause.
2. The airport board of adjustment shall adopt rules for its governance and in harmony with the provisions of this ordinance. Meetings of the airport board of adjustment

shall be held at the call of the chairperson and at such other times as the airport board of adjustment may determine. The chairperson or, in the absence of the chairperson, the acting chairperson may administer oaths and compel the attendance of witnesses. All hearings of the airport board of adjustment shall be public. The airport board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official action, all of which shall immediately be filed in the office of city clerk and on due cause shown.

3. The airport board of adjustment shall make findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this ordinance.
4. The concurring vote of a majority of the members of the airport board of adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the airport director, or to decide in favor of the applicant or any matter upon which it is required to pass under this ordinance or to grant a variance.

Sec. 4.105. Appeals.

A. Any person aggrieved, or any taxpayer affected, by any decision of the airport director, made in the administration of the ordinance, may appeal to the airport board of adjustment.

B. All appeals hereunder must be by written notice of appeal to the airport director within ten (10) calendar days after the airport director's original action to be appealed. The airport director shall forthwith transmit to the airport board of adjustment all the papers constituting the record upon which the action appealed from was taken.

C. An appeal shall stay all proceedings.

D. The airport board of adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

E. The airport board of adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination as may be appropriate under the circumstances.

ARTICLE V. INFLUENCE AREA

Sec. 5.100. INFLUENCE AREA.

Sec. 5.101. Nonconforming uses.

The regulations prescribed by this ordinance section shall not be construed to require the removal, or other change or alteration of any use not conforming to the regulations as of the effective date of this ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, if the construction or alteration of which was begun prior to the effective date of this ordinance.

Sec. 5.102. Notification.

Each person who proposes any change of land use shall notify the airport director if such change is within designated land use areas depicted on the airport zoning maps.

Sec. 5.103. Submittal requirements.

Each parcel within the bounds of the Airport Zoning Maps shall submit the necessary documentation as required in the City's most recently adopted 14 CFR Part 150, "Noise Compatibility Program" prior to the approval or building permit issuance.

Sec. 5.104. Requirements.

A. Any development approval or building permit issuance for a parcel within or under the bounds of the airport influence zone AC-1, AC-2, or AC-3 shall require a fair disclosure statement in a form approved by the airport director.

B. Any development approval or building permit issuance for a parcel within or under the bounds of the airport influence zone AC-2 or AC-3 shall require an aviation easement in a form approved by the airport director.

C. Any development approval or building permit issuance for a parcel within or under the bounds of the airport influence zone AC-3 shall not permit any residential component.

ARTICLE VI. AIRPORT INTERFERENCE.

Sec. 6.100. RESTRICTIONS.

Notwithstanding any other provisions of this ordinance, no use may be made of land or water within any zone established by this ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport or airpark.